

Notice of Allowability

Application No.

09/973,453

Applicant(s)

STEWART ET AL.

Examiner

James S. Wozniak

Art Unit

2626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 12/23/2005.
2. ☒ The allowed claim(s) is/are 1-38.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

DETAILED ACTION

Response to Amendment

1. In response to the office action from 8/23/2005, the applicant has submitted an amendment, filed 12/23/2005, amending claims 1 and 26, while arguing to traverse the art rejection based on the limitation regarding verbal identification of: what a fixation target is that is displayed, a change in direction of a fixation target, and a symbol change of a fixation target (*Amendment, Pages 10-13*). In light of the applicant's arguments and for the reasons given below, claims 1-38 are allowable over the prior art of record.

EXAMINER'S AMENDMENT

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

3. The application has been amended as follows:

- Change the numbering sequence of claims 32, 33, 32, 33, 34, 35, and 36 to 32, 33, 34, 35, 36, 37, and 38.

Allowable Subject Matter

4. **Claims 1-38** are allowable over the prior art of record.

5. The following is an examiner's statement of reasons for allowance:

With respect to **Claims 1 and 26**, the prior art of record fails to explicitly teach or fairly suggest a method and system for establishing fixation in a visual field perimeter test wherein a displayed fixation symbol is identified by a test subject with a spoken response indicating what the predetermined fixation symbol is that is displayed on a monitor (i.e., the specific name of a shape, letter, picture, number, or other easily identifiable image). The spoken response is then evaluated using a speech recognizer and if the symbol is correctly identified, a perimeter test stimulus is displayed to the subject rapidly thereafter.

Although Sinclair et al (*U.S. Patent: 5,589,897*) teaches displaying a fixation target prior to presenting a field perimeter test stimulus and verifying such a test stimulus using speech recognition (*Col. 5, Line 23- Col. 6, Line 17*), Sinclair does not teach any type of user verification of what a fixation target is that is displayed and makes no mention of identifying the fixation target using speech recognition. Although Rorabaugh does teach verifying the presence of a fixation stimuli using speech recognition (*Col. 33, Line 61- Col. 35, Line 26*), Rorabaugh merely teaches identifying the presence of such stimuli using speech recognition and does not teach verbally identifying what the fixation target is that is displayed to a test subject. Thus, claim 1 is allowable over the prior art of record.

Claims 2-10 and 27-38 further limit an allowable independent claim, and thus, are also allowable over the prior art of record.

With respect to **Claim 11**, the prior art of record fails to explicitly teach or fairly suggest a method and system for establishing fixation in a visual field perimeter test wherein a change in a direction of movement of a displayed fixation symbol is identified by a test subject with a spoken response. The spoken response is then evaluated using a speech recognizer and if the change in direction is correctly identified, a perimeter test stimulus is displayed to the subject rapidly thereafter.

Although Kasha (*U.S. Patent: 5,737,060*) teaches a means for responding to a fixation target direction change (*Col. 9, Lines 28-45 and Col. 6, Lines 8-24*), Kasha, as is noted by the applicant (*Amendment, Page 13*), does not teach any type of verbal identification with respect to the fixation target, as is required by the presently claimed invention. Sinclair and Rorabaugh, also fail to identify such a change in direction using speech. Thus, claim 11 is allowable over the prior art of record.

Claims 12-18 further limit an allowable independent claim, and thus, are also allowable over the prior art of record.

With respect to **Claim 19**, the prior art of record fails to explicitly teach or fairly suggest a method and system for establishing fixation in a visual field perimeter test wherein a change of a displayed fixation symbol is identified by a test subject with a spoken response. The spoken response is then evaluated using a speech recognizer and if the change in symbol is correctly identified, a perimeter test stimulus is displayed to the subject rapidly thereafter.

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Although Kasha (*U.S. Patent: 5,565,949*) teaches a means for responding to a fixation target direction change (*Col. 4, Lines 25-37 and Col. 6, Lines 20-36*), Kasha, as is noted by the applicant (*Amendment, Page 13*), does not teach any type of verbal identification with respect to the fixation target, as is required by the presently claimed invention. Sinclair and Rorabaugh, also fail to identify such a change in the fixation symbol using speech. Thus, claim 19 is allowable over the prior art of record.

Claims 20-25 further limit an allowable independent claim, and thus, are also allowable over the prior art of record.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion


6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James S. Wozniak whose telephone number is (571) 272-7632. The examiner can normally be reached on M-Th, 7:30-5:00, F, 7:30-4, Off Alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Hudspeth can be reached at (571) 272-7843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

James S. Wozniak
3/15/2006


**DAVID HUDSPETH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600**